

# **Exhibit 5**

**DECLARATION OF MEGHAN DUFRAIN**

COMES NOW, Meghan DuFrain and pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. My name is Meghan DuFrain, and I am over 18 years old. I have personal knowledge of the facts as stated herein.
2. I am the mother of J.D., who is 7 years old and is in second grade at Cumberland Elementary School, which is part of the Cumberland County Public Schools. J.D. has been diagnosed with cystic fibrosis. See Exhibit A (Letter from Doctor H. Joel Schmidt). This condition substantially limits the major bodily functions of the respiratory system.
3. This condition also puts him at higher risk for severe complications if he were to become infected with COVID-19.
4. J.D.'s doctor has stated that the abnormal lung secretions from cystic fibrosis can "make any respiratory infection more problematic, potentially causing an exacerbation that could require an extended hospitalization." See Exhibit A.
5. I also have two other children who are not disabled and do not have health conditions that put them at greater risk for severe complications should they contract COVID-19- W.D, who is 10 years old and in fifth grade, and R.D., who is 5 years old and in kindergarten.
6. J.D.'s siblings are both fully vaccinated against COVID-19, but not yet eligible for the booster. Myself and my husband are both fully vaccinated and have received the COVID-19 booster. J.D. is vaccinated and is not yet eligible for a booster. Even with the vaccine, J.D. remains at heightened risk of serious illness due to COVID-19.

7. The medical provider for J.D. recommends having J.D. and our family follow the Centers for Disease Control and Prevention (CDC) and Cystic Fibrosis Foundation advice of universal masking at all times.
8. There are no virtual education options available for J.D. and the deadline to enroll in the statewide virtual option has passed.
9. J.D. was homeschooled in fall 2021 because my family felt we had no other choice and could not risk exposure to COVID-19. In January 2022, J.D. was enrolled for in-person school because there was no virtual option. The risk to his health was mitigated by the universal masking policy and the availability of vaccines for students age five and older.
10. In January 2022, J.D. attended in-person instruction until January 24, when in response to Executive Order 2 Cumberland County Public Schools lifted its mask mandate.
11. On January 22, 2022 Cumberland County Public Schools issued a letter to families stating that, “to be in compliance with this new executive order and Senate Bill 1303, CuCPS will permit parents/guardians to opt their students out of the universal mask mandate.” This letter also explained that school staff and visitors will still be required to wear masks. See Exhibit B (Letter from Cumberland County Public Schools).
12. Between January 24, 2022 and January 28, 2022, I received voicemails from Cumberland County Public Schools reporting approximately 30 confirmed cases of COVID-19 across the three schools in the division.
13. During January 2022 Cumberland County saw the highest 7-day average number of new cases since the beginning of the pandemic. See Exhibit A.

14. J.D. and his two siblings are currently not attending school in-person because of the risk to J.D.'s health and safety. J.D. is missing out on his education, opportunities for social development, and is not even being provided school work for his classes.

15. My husband and I have been forced to choose between our children's education and their health.

16. I am seeking to have EO 2 blocked so that my school will be able to require universal masking as necessary to meet its obligations to my children.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dates this 8 of February, 2022 at Cumberland, Virginia.

  
Meghan DuFrain, Plaintiff

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

CHRISTOPHER SEAMAN and ELIZABETH  
ALLISON LYONS, individually and on behalf  
of C.S., a minor; *et al.*

Plaintiffs,

v.

The COMMONWEALTH OF VIRGINIA; *et al.*

Defendants.

Case No. 3:22-cv-00006-NKM

**EXHIBIT A FILED UNDER SEAL**

# **Exhibit B**



DONALD C. "Chip" JONES, JR., Ed.D.  
Division Superintendent

## CUMBERLAND COUNTY PUBLIC SCHOOLS

P. O. BOX 170  
CUMBERLAND, VIRGINIA 23040  
(804) 492-4212  
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GINGER SANDERSON  
School Board Chairman

LATESHA ANDERSON  
School Board Member

GEORGE LEE DOWDY III  
School Board Member

LEIGH McCREA  
School Board Member

CHRISTINE ROSS, Ph.D.  
School Board Vice Chairman

January 22, 2022

RE: Governor's Executive Order Regarding Masks for Students

Dear CuCPS Families:

Cumberland County Public Schools (CuCPS) has been requiring all students, staff, and visitors to wear masks when inside school buildings. Universal mask wearing was required by Senate Bill 1303. However, on January 15, 2022, Governor Youngkin issued an executive order mandating that parents/guardians be allowed to opt their children out of the mask mandate while inside of school buildings, beginning January 24, 2022. To be in compliance with this new executive order and Senate Bill 1303, CuCPS will permit parents/guardians to opt their students out of the universal mask mandate. A form is available for parents who wish to do so.

**Parents/Guardians who still wish their students to remain masked should make that expectation known to their students.** Harassing/bullying/discriminating against students who do or who do not wear masks is expressly prohibited.

The executive order stated that the Superintendent of Public Instruction "shall rescind the Interim Guidance for COVID-19 Prevention in Virginia PreK-12 schools, issued January 14, 2021, and updated October 14, 2021, and issue new guidance for COVID-19 Prevention consistent with this Order." Moreover, parents/guardians should be aware that this executive order is being challenged and may be overturned.

**There are some exceptions to the opt-out executive order. Federal law still states that students who are transported to school on public vehicles (car or bus) are still required to wear masks while riding these vehicles.** Therefore, in order to be transported to school in school vehicles, students must be masked. Masks are still required for visitors in our school buildings.

We understand that there are different views on the wearing of masks. CuCPS, based on the CDC guidelines, still recommends the wearing of masks (including double masking) and encourages vaccination (including boosting). Staff members will still wear masks as required by the Department of Labor and Industry. The division will continue to implement other mitigation measures, including social distancing to the greatest extent possible, monitoring facilities (including regular changing of air filters), making hand sanitizer available, and promoting frequent hand washing.

Isolation of students/staff who contract COVID-19 and quarantining for close contacts will still be in effect. The COVID-19 screening tool should be used each morning and students who display symptoms should be kept at home.

The safety of all CuCPS students is our main concern. We will keep you informed as new development emerge regarding the wearing of masks.

Sincerely,

A handwritten signature in blue ink, appearing to read "Chip Jones".  
Chip Jones, Ed.D.  
Superintendent